

### **REMARKS/ARGUMENTS**

The Applicant has carefully considered this application in connection with the Examiner's Action and respectfully requests reconsideration.

The Applicant originally submitted Claims 1-20 in the application. The Applicant amended Claim 1 for formality reasons and has not amended, cancelled, or added any other claims. Accordingly, Claims 1-20 are currently pending in the application.

#### **I. Rejection of Claims 1-20 under 35 U.S.C. §102**

These claims are rejected under 35 U.S.C. §102(a) as anticipated by U.S. Patent 6,590,042 to Tang (Tang). This rejection is improper because Tang is not a valid 102 reference. As noted in the Cross-reference To Related Applications section, the present application claims priority of international Application No. PCT/US2002/031782, which in turn, basis its priority on Tang. The Applicant initially filed Tang as a U.S. application, and within the prescribed year, a PCT application was filed based on the U.S. filing. In that PCT application, the U.S. was designated as one of the selected countries for filing. Within the prescribed time period, the present application was filed. Thus, Tang is not a valid 102 reference because the present application's priority is ultimately based on Tang. Accordingly, the Applicant respectfully requests the Examiner to withdraw the §102 rejection with respect to these Claims.

## **II. Rejection of Claims 1, 6, 7, 11, 16, and 17 under 35 U.S.C. §102**

These claims are rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent 5,770,632 to Sekhar (Sekhar). Sekhar fails to anticipate these claims because there is no teaching of the percentages of sulfur in the chemical composition, as recited in Claims 1 and 11 and from which Claims 6 and 7 and 16 and 17 respectively depend. Sekhar teaches only a very low percentage of sulfur concentration. For example, see Col. 3, lines 50-60 where only 1.5% of sulfur is taught. The Applicant is unable to find any teaching in Sekhar where the sulfur ranges from about 40% to about 60% by weight of the chemical composition and would appreciate it if the Examiner would specifically point out in Sekhar where the recited percentages of sulfur is taught.

Since Sekhar fails to teach every element of the recited elements of Claims 1 and 11, it fails to anticipate these claims as well as their respective dependent claims. Accordingly, the Applicant respectfully requests that the Examiner withdraw the rejection.

## **III. Rejection of Claims 1, 4-7, 9, 11, 14-17 and 19 under 35 U.S.C. §103**

These claims are rejected under 35 U.S.C. §103(a) as unpatentable over Sekhar in view of U.S. Patent No. 6,924, 319 to Alsdorf (Alsdorf). The asserted combination fails to establish a *prima facie* case of obviousness. As stated above, Sekhar fails to teach the percentages of sulfur as recited in Claims 1 and 11. Moreover, there is no suggestion of these percentages given that the percentages that Sekhar teaches are negligible compared to the 40 to 60 percent ranges recited in Claims 1 and 11. Alsdorf does not cure the deficiencies of the recited combination. Similar to Sekhar, Alsdorf only teaches or suggests very low sulfur content. For example, in Col. 8, lines 30-40 and Col. 13,

lines 5-35, Alsdorf teaches or suggests sulfur in the range of 1.5 to 2 theoretical parts. While the Applicant believes that these figures equate roughly to a weight percent, there is certainly no indication that a 1.5 to 2 theoretical part is equivalent to a range of 40% to 60%. Therefore, the combination fails to teach or suggest each element of recited Claims 1 and 11 and their respective dependent claims.

In view of the foregoing remarks, the cited references do not support the Examiner's rejection of Claims 1, 4-7, 9, 11, 14-17 and 19 under 35 U.S.C. §103(a) and a *prima facie* case of obviousness has not been established. The Applicant therefore respectfully requests the Examiner withdraw the rejection.

#### **IV. Conclusion**

In view of the foregoing amendment and remarks, the Applicant now sees all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicits a Notice of Allowance for Claims 1-20.

The Applicant requests the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present application. The Commissioner is hereby authorized to charge any fees, credits or overpayments to Deposit Account 08-2395.

Respectfully submitted,

HITT GAINES, PC

A handwritten signature in dark ink, appearing to read "Charles W. Gaines". The signature is fluid and cursive, with the first name "Charles" being the most prominent.

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